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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,289	11/13/2003	Volker Boettiger	DE920020042US1	2031

7590 04/29/2008  
The McConnell Law Firm  
2115 Saint Mary's Street  
Raleigh, NC 27608

EXAMINER
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KIM, AHSHIK

ART UNIT	PAPER NUMBER
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2876

MAIL DATE	DELIVERY MODE
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04/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,289	<b>Applicant(s)</b> BOETTIGER, VOLKER	
	<b>Examiner</b> Ahshik Kim	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/6/08 (Appeal Brief).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,9,12 and 16 is/are rejected.
- 7) ☒ Claim(s) 2,4-8,10,11 and 13-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Appeal Brief*

1. Receipt is acknowledged of the Appeal Brief filed on February 26, 2008.

5 In view of the appeal brief filed on February 26, 2008, especially the summary of invention and subsequent argument section, the PROSECUTION IS HEREBY REOPENED. The finality of the office action (mailed out on November 9, 2005) is withdrawn. Non-final office action is set forth below. Currently claims 1-16 remain in the examination.

10 To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

15 If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### *Claim Rejections - 35 USC § 102*

20 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 3, 9, 12, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Levine (US 6,188,309 B1, previously cited hereinafter “Levine”).

Re claims 1, 9, 12, and 16, Levine discloses intelligent credit card comprising a processor 62 and memory 66 (see abstract), either of which stores a PIN code entered by the user (col. 4, lines 7+). The card is in deactivated state (see figure 5). When correct PIN is entered, the card changes to its state to “activated state”. The clerk then swipes the card to retrieve the account number (col. 4, lines 23+). The card is activated for a period of time (see step 135 of figure 5 or step 210 of figure 6; col. 4, lines 63+). Re claim 2, the card becomes activated state only after the PIN is successfully verified (col. 4, lines 23+). The method of using the smart card is illustrated in figures 5-6 (col. 3, lines 63+), which can be further interpreted as a computer instruction, some of which are run on the card terminal and some on the card itself.

Re claim 3, it is the Examiner’s position that the account number is an authorization code as recited in claim 1 of an access code of claim 3.

#### ***Allowable Subject Matter***

4. Claims 2, 4-8, 10, 11, and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The claims are directed at a chip card containing authorization code, a method of entering authorization code into a chip card and a computer program stored in a medium for entering the authorization code into a chip card. An authorization code is entered into

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a card, and when the authorization code is entered via a card terminal, it is verified. After successful verification, the card changes a state for a period of time and retrieves the authorization code from the card. Such card, method and a computer program is neither disclosed nor suggested by the cited references.

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### ***Conclusion***

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Homma et al. (US 4,839,506); Atsumi et al. (US 5,034,597);  
10 Schick et al. (US 5,180,902) disclose chip card containing PIN or other information. Applicant is respectfully suggested to carefully review these references.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 8:00 AM to 5:00 PM  
15 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (571)273-8300.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

25 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG*  
30 *89.*

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for  
35 published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available for Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have

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any questions or access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Ahshik Kim/

Primary Examiner

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April 25, 2008

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